

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 6586

BILL NUMBER: HB 1076

DATE PREPARED: Dec 8, 1998

BILL AMENDED:

SUBJECT: Cemetery protection.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill makes the following requirements:

- (1) The person effecting disinterment, removal, and reinterment of a grave to give 60 days written notice to the decedent's next of kin and publish the notice in a newspaper of general circulation.
- (2) The person effecting the removal of graves to file a certificate of removal facts with the county recorder in the county from which the graves were removed and the county in which reinterment is made.
- (3) The certificate of removal facts list information contained on the gravestone or other markers, such as the birth date, death date, and family name.
- (4) All expenses associated with the disinterment, removal, and reinterment be paid by the person effecting the disinterment, removal, and reinterment.
- (5) The person effecting the disinterment, removal, and reinterment to ensure that the site for reinterment is suitable and reasonably accessible to relatives of the decedent.
- (6) Disinterment, removal, and reinterment be performed under the supervision and direction of the county executive or the county executive's designee.
- (7) Due care be taken to furnish suitable coffins or boxes for reintering human remains and to remove, protect, and replace all gravestones or other markers.

Effective Date: July 1, 1999.

Explanation of State Expenditures: If the State is responsible for the disinterment, removal, and reinterment of human remains, the State must comply with the requirements of this bill. There will be additional cost incurred by the State for the required written notification and publication in a newspaper(s) of general circulation in the county where the grave is located. The State would also incur costs in the recording of the written certificate of removal facts. These costs should not require an additional General Fund appropriation.

The State is required to pay all expenses of disinterment, removal, and acquisition of the new burial site. The State is also required to pay the actual reasonable expenses incurred by one of the next of kin in attending the disinterment, removal, acquisition, and reinterment. The total of these costs may not exceed \$200. The fiscal impact of these provisions is indeterminable because it is unknown as to how many disinterments, removal, and reinterments will be order by the state.

The State Department of Health is required to adopt rules which would govern the registration and indexing of the written certificate of removal facts, including the form of that certificate. The adoption of rules can be done within the existing budget of the State Department of Health. An additional General Fund appropriation is not required.

Explanation of State Revenues: This bill provides that a person who knowingly violates the provisions of this bill commits a Class B Misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class B Misdemeanor is \$1,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: The provisions of this bill apply to local governmental units. If a local governmental unit orders a disinterment, removal, and reinterment, the local governmental unit would incur costs for the sending of a written notice, the publication in a newspaper of general circulation (in the county where the grave is located). The local governmental unit would also incur costs in the recording of the written certificate of removal facts. These costs can be done within the existing budget of the local governmental unit.

Like the State, a local governmental unit is required to pay all expenses of disinterment, removal, and acquisition of the new burial site. The local governmental unit is also required to pay the actual reasonable expenses incurred by one of the next of kin in attending the disinterment, removal, acquisition, and reinterment. The total of these costs may not exceed \$200. The fiscal impact of these provisions is indeterminable and is dependent on the number of disinterment, removal, and reinterment ordered by a local governmental unit.

A Class B misdemeanor is punishable by up to 180 days in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: The county recorder **may** collect a filing fee under IC 36-2-7-10 for the filing of the written certificate of removal facts. Fees range from \$1-\$15 depending on a number of factors including but not limited to page sizes of the document, acknowledging or certifying a document, proofreading any copy presented for certification, and cross-reference of a recorded document. The amount of revenue generated from the additional recording fees allowed in this bill are indeterminable and will vary among counties.

If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be

deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: State Department of Health.

Local Agencies Affected: Local governmental units; County Recorder; Trial courts; Local law enforcement agencies.

Information Sources: